

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:08-CR-169
)	(PHILLIPS/GUYTON)
RICHARD EUGENE DAVIDSON,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case is before the Court on the defendant's *pro se* motion to suppress evidence and dismiss the indictment for lack of probable cause to issue the search warrant [Doc. 45] and motion to suppress evidence seized from 308 N. Trinity Ave., Rockwood, TN, for lack of probable cause [Doc. 46]. The Court finds that it cannot rule upon the issues presented in these motions without holding a hearing. With regard to the first motion [Doc. 45], the Court notes that the motion does not even mention which search warrant is the subject of the motion. Accordingly, the Court will hold a hearing on these motions at the pretrial conference scheduled on May 27, 2009, at 11:00 a.m. The parties should be prepared to present evidence and make oral arguments on these motions at that time. The Court would remind the parties that in determining the sufficiency of probable cause to issue a search warrant, the Court is "concerned only with the statements of fact contained in the affidavit." United States v. Hatcher, 473 F.2d 321, 323 (6th Cir. 1973); see also Whiteley v. Warden, 401 U.S. 560, 565 (1971).

At the May 27 hearing, the Court will also address whether it will permit the defendant to late-file his motion to dismiss that is the subject of his motion for leave [Doc. 81] to late-file. In addition to these three motions [Docs. 45, 46, and 81], the Court will also take up the matter of the feasibility of the June 2, 2009 trial date at that hearing. Oral argument and the presentation of evidence will be strictly limited to the aforementioned motions and the issues properly raised therein.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge